



DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 220608-0131]

RIN 0691-AA91

International Services Surveys: Renewal of and Changes to BE-120 Benchmark Survey of Transactions in Selected Services and Intellectual Property with Foreign Persons, and Clarifying When BE-140 and BE-180 Benchmark Surveys are Conducted

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend regulations of the Department of Commerce's Bureau of Economic Analysis (BEA) to renew reporting requirements for the BE-120 Benchmark Survey of Transactions in Selected Services and Intellectual Property with Foreign Persons. This proposed rule would also amend the regulations for BEA's two other international services benchmark surveys, the BE-140 Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons and the BE-180 Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons, to clarify when the surveys will be conducted.

DATES: Comments on this proposed rule will receive consideration if submitted in writing on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You can submit comments, identified by RIN 0691-AA91, and referencing the

agency name (Bureau of Economic Analysis), by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. For Keyword or ID, enter “EAB-2022-0002.”
- *E-mail:* christopher.stein@bea.gov
- *Mail:* Christopher Stein, Chief, Services Surveys Branch (BE-50), Balance of Payments Division, Bureau of Economic Analysis, U.S. Department of Commerce, 4600 Silver Hill Rd., Washington, DC 20233.
- *Hand Delivery/Courier:* Christopher Stein, Chief, Services Surveys Branch (BE-50), Balance of Payments Division, Bureau of Economic Analysis, U.S. Department of Commerce, 4600 Silver Hill Rd., Suitland, MD 20746.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule should be sent to both BEA through any of the methods above and to the Office of Management and Budget (OMB) by submitting comments at www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review" or by using the search function and entering the title of the collection.

Public Inspection: All comments received are a part of the public record and will generally be posted to <https://www.regulations.gov> without change. Personal identifying information voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. BEA will accept anonymous comments (enter N/A in required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Christopher Stein, Chief, Services Surveys Branch (BE-50), Balance of Payments Division, Bureau of Economic Analysis, U.S. Department of

Commerce, 4600 Silver Hill Rd., Washington, DC 20233; e-mail christopher.stein@bea.gov or phone (301) 278-9189.

SUPPLEMENTARY INFORMATION: The BE-120 Benchmark Survey of Transactions in Selected Services and Intellectual Property with Foreign Persons is a mandatory survey and is conducted once every five years by BEA under the authority of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101-3108). The data reported to BEA through this survey are confidential and may be used only for analytical and statistical purposes. A response is required from persons subject to the reporting requirements of the BE-120, whether or not they are contacted by BEA.

The BE-120 benchmark survey covers the universe of selected services and intellectual property transactions of U.S. companies with foreign persons and is BEA's most comprehensive survey of such transactions. The data collected through the BE-120 are needed to monitor U.S. trade in services and intellectual property, to analyze the impact of U.S. trade in these services on the U.S. economy and on foreign economies, to compile and improve the U.S. economic accounts, to support U.S. commercial policy on trade in services, to conduct trade promotion activities, and to improve the ability of U.S. businesses to identify and evaluate market opportunities. The benchmark data will be used, in conjunction with data collected from a sample of respondents on the companion BE-125 Quarterly Survey of Transactions in Selected Services and Intellectual Property with Foreign Persons, to produce quarterly estimates of selected services and intellectual property components for BEA's international transactions accounts, national income and product accounts, and industry accounts.

Description of Changes

The proposed changes to the BE-120 survey include changes in data items collected and the design of the survey form. BEA proposes to add three items to the survey. The changes are proposed in response to suggestions from data users and to allow BEA to more closely align its

statistics with international guidelines and publish more information on U.S. trade in services. The following items would be added to the BE-120 benchmark survey:

(1) Questions to collect information on the largest U.S. states (up to three) for sales

(exports) and purchases (imports) of services. Respondents that meet the thresholds (\$2 million in combined sales, and/or \$1 million in combined purchases) for filing on the mandatory schedules will be required to report information for up to three U.S. states that accounted for the largest shares of their sales and purchases activity. Reporters will be instructed to consider all of their cross-border sales and purchases of services (in aggregate for all transaction types and affiliation categories) and report the U.S. states that represented the largest share of their sales and (separately) their purchases. After identifying the states, reporters would provide an estimate of the percentage of their sales and purchases that were transacted from each state. Collecting information on the percent of total sales and purchases by state would allow BEA to study the feasibility of producing statistics on exports and imports of services by U.S. state and of estimating gross domestic product (GDP) by state using the expenditure approach.

(2) Questions to collect information on digital intermediation platforms. BEA proposes to ask if the reporters operated a digital intermediation platform, and if so, the value of their digital intermediation sales and associated transaction categories. All BE-120 respondents that meet the thresholds for filing on the mandatory schedules would be required to respond to these questions. Survey instructions and definitions will be modified to ensure fees and commissions for sales and purchases made through digital intermediation platforms are reported in the correct transaction categories. The collection of information on digital intermediation services would allow BEA to develop estimates of the value of digitally intermediated trade in services.

(3) Question on employment size class. To provide information on the distribution of international trade in services by business size, BEA proposes to add a question asking for

the employment size class of the consolidated U.S. company. The question would ask all respondents to check a box indicating their employment size class: Very small (0–250), Small (251–500), Medium (501–1,000), Large (1,001–10,000), Very large (> 10,000). Data users have expressed interest in data on the number of U.S. small businesses engaged in services trade and the value of their services trade. Collecting this information would allow BEA to aggregate data on small businesses filing the survey by type of service and industry, which data users can use to conduct targeted outreach and promotion efforts in support of small businesses.

Additionally, BEA proposes to modify the remote services schedules (Schedules D and E) to better capture trade in digitally delivered services. Survey instructions will direct reporters to provide an estimate of the percentage of services that were digitally delivered from the U.S. Reporter’s domestic offices and provided to the purchaser located abroad via a computer network (via the Internet, mobile device, extranet, or other comparable online system). Services provided via manually typed email, telephone, or fax will be excluded. The percentage reported should reflect all interactions with the customer, not just the delivery of the final product.

BEA also proposes to delete the following two items from the BE-120 benchmark survey:

- (1) **Transaction categories for “Other intellectual property” would be eliminated.** Rights to use other intellectual property (code 8.1), rights to reproduce and/or distribute other intellectual property (code 8.2), and outright sales or purchases of proprietary rights related to other intellectual property (code 8.3) would no longer be collected. BEA typically reclassifies transactions reported to BEA in these categories to research and development (R&D) services (transaction code 29.1, the provision of customized and non-customized R&D services; and, transaction code 29.2, other R&D services, including testing) and to other selected services (transaction code 42). This proposed deletion is consistent with modifications implemented on the BE-125 quarterly survey beginning with reporting for the first quarter of 2022.

(2) Questions on “Contract manufacturing services” would be eliminated. On the 2017 BE-

120 survey, in addition to collecting contract manufacturing services as a stand-alone transaction category in Table 1 and on the mandatory schedules, BEA incorporated additional questions related to contract manufacturing that gathered details regarding the material inputs, as well as the output product of the contract manufacturing services activity, for both sales and purchases activities. As a result of very limited and poor reporting of detail in these questions during the 2017 survey, BEA found little use for the information gathered and therefore proposes to eliminate collection of these details for the 2022 survey. Data will continue to be collected for contract manufacturing sales and purchases in transaction category 35.

BEA proposes to redesign the format and wording of the survey. The new survey design would incorporate improvements that have been made to other BEA surveys. BE-120 benchmark survey instructions and data item descriptions would be changed to improve clarity and ensure that the survey form is consistent with other BEA surveys.

This proposed rule would amend 15 CFR part 801 by modifying §§ 801.3 and 801.11 through 801.13 and removing § 801.9 to clarify the timing of the three international services benchmark surveys: the BE-120 Benchmark Survey of Transactions in Selected Services and Intellectual Property with Foreign Persons, the BE-140 Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons, and the BE-180 Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons. The next BE-120 survey will apply to the 2022 fiscal reporting year, and will be conducted once every five years thereafter, for reporting years ending in 2 and 7. Additionally, the next BE-140 survey and BE-180 survey will be collected for the 2023 and 2024 reporting years, respectively, and will continue to be conducted every five years thereafter. The BE-140 will be collected for reporting years ending in 3 and 8, and the BE-180 will be collected for reporting years ending in 4

and 9. See the most recent versions of the BE-120, BE-140, and BE-180 benchmark surveys at www.bea.gov for a more detailed description of covered transactions and definitions.

Each time a benchmark survey is to be conducted, BEA will describe any proposed changes to the information collected through the survey (including the addition, deletion, and/or modification of existing questions and definitions) in a public notice and will solicit comments as part of the requirements of the Paperwork Reduction Act (PRA). Any changes to reporting requirements or significant expansions in scope of the surveys would be conducted by rulemaking.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520 (PRA). The proposed requirement will be submitted to OMB for approval as a reinstatement, with change, of a previously approved collection under OMB control number 0608-0058, for which approval has expired. Surveys were collected for the 2017 BE-120 in calendar years 2018 and 2019. No survey submissions were solicited by BEA after the expiration and discontinuance of the collection in June of 2021.

The BE-120 survey, as proposed, is expected to result in the filing of reports from

approximately 15,000 respondents. Approximately 11,000 respondents would complete the survey, and approximately 4,000 would file exemption claims. The respondent burden for this collection of information would vary from one respondent to another, but is estimated to average (1) 24 hours for the 5,000 respondents that report data by transaction type, country, and affiliation; (2) 4 hours for the 6,000 respondents that report data by transaction type only; and (3) 1 hour for the 4,000 that file an exemption claim. These burden-hour estimates consider time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total respondent burden for this survey is estimated at 148,000 hours, or approximately 10 hours per response (148,000 hours/15,000 respondents), compared to 145,000 hours, or about 9.5 hours per response (145,000 hours /15,500 respondents) for the 2017 BE-120 benchmark survey. The increase in burden hours is due to estimated changes in the expected quantity of survey responses, the composition of the respondent universe (those filing full schedule detail vs. totals by transaction type only) from 2017 to 2022, as well as modifications to the content of the survey for those filing schedule detail.

As part of its continuing effort to reduce paperwork and respondent burden, the Department of Commerce invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the PRA. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule should be sent to both BEA and OMB following the instructions given in the ADDRESSES section above. Notwithstanding any other

provisions of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection displays a currently valid OMB control number.

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. The changes proposed in this rule are discussed in the preamble and are not repeated here.

A BE-120 report would be required of any U.S. company that had services transactions with foreign persons in any of the covered types of selected services and/or intellectual property. While BEA does not have information on the size of the respondents to the survey, historically the respondents to the existing quarterly survey of transactions in selected services and intellectual property and to the previous benchmark surveys were mostly major U.S. corporations. For U.S. companies that had combined sales exceeding \$2 million, and/or combined purchases transactions exceeding \$1 million in the transaction categories covered by the survey for the fiscal year, a completed benchmark survey would include data on each of the covered types of services and/or intellectual property transactions with totals disaggregated by country and by relationship to the foreign transactor (foreign affiliate, foreign parent group, or unaffiliated). For U.S. companies that had combined sales of \$2 million or less and combined purchases transactions of \$1 million or less in the transaction categories covered by the survey for the fiscal year, a completed benchmark would include totals for each type of transaction in which they engaged. This abbreviated benchmark requirement would exclude most small businesses from mandatory reporting of detail by country and by affiliation. Any small businesses that would be required to report would likely have engaged in a small number of covered transactions and would be less likely to report detail by

country and affiliation, and, therefore, would be expected to have below the average burden of 10 hours per response. Therefore, this proposed rule would not have a significant economic impact on a substantial number of small entities, and thus an Initial Regulatory Flexibility Analysis is not required, and none has been prepared.

List of Subjects in 15 CFR Part 801

Economic statistics, Foreign trade, International transactions, Penalties, Reporting and recordkeeping requirements.

Dated: June 8, 2022.

Paul W. Fareello,

Associate Director of International Economics, Bureau of Economic Analysis.

For reasons set forth in the preamble, BEA proposes to amend 15 CFR part 801 as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS AND SURVEYS OF DIRECT INVESTMENT

1. The authority citation for 15 CFR part 801 continues to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp. p. 173); and E.O. 12518 (3 CFR, 1985 Comp. p. 348).

2. Amend § 801.3 by revising the introductory text to read as follows:

§ 801.3 Reporting requirements.

Except for surveys subject to rulemaking in §§ 801.7, 801.8, 801.10, 801.11, 801.12, and 801.13, reporting requirements for all other surveys conducted by the Bureau of Economic Analysis shall be as follows:

* * * * *

§ 801.9 [Removed and Reserved]

3. Section 801.9 is removed and reserved.

4. Revise § 801.11 to read as follows:

§801.11 Rules and regulations for the BE-120 Benchmark Survey of Transactions in Selected Services and Intellectual Property with Foreign Persons.

The BE-120 Benchmark Survey of Transactions in Selected Services and Intellectual Property with Foreign Persons will be conducted once every five years and covers years ending in 2 and 7. BEA will describe the proposed information collection in a public notice and will solicit comments according to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501-3520). All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.2 and §§ 801.4 through 801.6 are applicable to this survey. Specific additional rules and regulations for the BE-120 survey are given in this section. More detailed instructions are given on the report form and in instructions accompanying the report form.

(a) *Response required.* A response is required, every fifth year, from persons subject to the reporting requirements of the BE-120 Benchmark Survey of Transactions in Selected Services and Intellectual Property with Foreign Persons, contained in this section, whether or not they are contacted by BEA. Also, a person, or its agent, that is contacted by BEA about reporting on this survey, either by sending a report form or by written inquiry, must respond in writing pursuant to this section. This may be accomplished by:

- (1) Completing and returning the BE-120 by the due date of the survey; or
- (2) If exempt, by completing the determination of reporting status section of the BE-120 survey and returning it to BEA by the due date of the survey.

(b) *Who must report.* A BE-120 report is required of each U.S. person that had transactions with foreign persons in the categories covered by the survey during the fiscal year covered by the survey.

(c) *What must be reported.* (1) A U.S. person that had combined sales to foreign persons that exceeded \$2 million, and/or combined purchases from foreign persons that exceeded \$1 million in the services and intellectual property categories covered by the survey during its fiscal year, on an accrual basis, is required to provide data on total sales and/or purchases of each of the covered types of transactions and must disaggregate the totals by country and by relationship to the foreign transactor (foreign affiliate, foreign parent group, or unaffiliated). The \$2 million threshold for sales and the \$1 million threshold for purchases should be applied to the covered transactions categories with foreign persons by all parts of the consolidated domestic U.S. Reporter. Because the \$2 million and \$1 million thresholds apply separately to sales and purchases, the mandatory reporting requirement may apply to sales only, to purchases only, or to both. The determination of whether a U.S. services provider is subject to this reporting requirement can be based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(2) A U.S. person that had combined sales to foreign persons that were \$2 million or less, and combined purchases from foreign persons that were \$1 million or less in the transaction categories covered by the survey during its fiscal year, on an accrual basis, is required to provide the total sales and/or purchases for each type of transaction in which they engaged. The \$2 million threshold for sales and the \$1 million threshold for purchases should be applied to the covered transactions categories with foreign persons by all parts of the consolidated domestic U.S. Reporter. Because the \$2 million and \$1 million thresholds apply separately to sales

and purchases, the mandatory reporting requirement may apply to sales only, to purchases only, or to both.

(i) *Voluntary reporting of transactions.* If, during the reporter's fiscal year, combined sales were \$2 million or less, and combined purchases were \$1 million or less, on an accrual basis, the U.S. person may, in addition to providing the required total for each type of transaction, report sales at a country and affiliation level of detail on the applicable mandatory schedule(s). The estimates can be judgmental, that is, based on recall, without conducting a detailed records search.

(ii) [Reserved]

(3) Any U.S. person that receives the BE-120 survey form from BEA, but is not subject to the reporting requirements, must file an exemption claim by completing the determination of reporting status section of the BE-120 survey and returning it to BEA by the due date of the survey. This requirement is necessary to ensure compliance with reporting requirements and efficient administration of the Act by eliminating unnecessary follow-up contact.

(d) *Covered types of services and intellectual property.* Services transactions covered by this survey consist of: Advertising and related services; architectural, engineering, scientific, and other technical services; computer services; construction; financial services (for reporters who are not a financial services providers); franchises and trademarks licensing fees; information services; legal, accounting, management consulting, and public relations services; licenses for the use of outcomes of research and development; licenses to reproduce and/or distribute computer software; licenses to reproduce and/or distribute audiovisual products; maintenance and repair services; manufacturing services; operating leasing services; other business services; personal, cultural, and recreational services; research and development services; primary insurance premiums and losses (for reporters

who are not a U.S. insurance company); space transport services; telecommunications services; trade-related services; and waste treatment and de-pollution, agricultural, and mining services.

- (e) *Types of transactions excluded from the scope of this survey.* (1) Financial services transactions conducted by a U.S. financial services provider, all insurance services conducted by a U.S. insurance company, and all travel and transport activities that are not space transport services.
- (2) Sales and purchases of goods. Trade in goods involves products that have a physical form, and includes payments or receipts for electricity.
- (3) Sales and purchases of financial instruments, including stocks, bonds, financial derivatives, loans, mutual fund shares, and negotiable CDs. (However, securities brokerage is a service.)
- (4) Income on financial instruments (interest, dividends, capital gain distributions, etc.).
- (5) Compensation paid to, or received by, employees.
- (6) Penalties and fines and gifts or grants in the form of goods and cash (sometimes called “transfers”).
- (f) *Due date.* A fully completed and certified BE-120 report, or qualifying exemption claim with the determination of reporting status section completed, is due to be filed with BEA by July 31 of the year after the year covered by the survey.

5. Revise § 801.12 to read as follows:

§801.12 Rules and regulations for the BE-140 Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons.

The BE-140 Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons will be conducted once every five calendar years and covers years ending in 3 and

8. BEA will describe the proposed information collection in a public notice and will solicit comments according to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501-3520).

All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.2 and §§ 801.4 through 801.6 are applicable to this survey. Specific additional rules and regulations for the BE-140 survey are given in this section. More detailed instructions are given on the report form and in instructions accompanying the report form.

(a) *Response required.* A response is required from U.S. insurance companies subject to the reporting requirements of the BE-140 Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons, contained in this section, whether or not they are contacted by BEA. Also, a U.S. insurance company, or its agent, that is contacted by BEA about reporting on this survey, either by transmission of a report form or by written inquiry, must respond in writing pursuant to this section. This may be accomplished by:

- (1) Completing and returning the BE-140 by the due date of the survey; or
- (2) If exempt, by completing the determination of reporting status section of the BE-140 survey and returning it to BEA by the due date of the survey.

(b) *Who must report.* A BE-140 report is required of each U.S. insurance company that had insurance transactions with foreign persons in the categories covered by the survey during the calendar year covered by the survey.

(c) *What must be reported.* (1) A U.S. insurance company that had transactions with foreign persons that exceeded \$2 million in the insurance categories covered by the survey during its calendar year, on an accrual basis, is required to provide data on the total transactions of each of the covered types of insurance transactions and must disaggregate the totals by country and by relationship to the foreign counterparty (foreign affiliate, foreign parent group, or unaffiliated). The \$2 million threshold should be applied to insurance services transactions with foreign persons by all parts of the consolidated domestic U.S. Reporter. The determination of whether a U.S. insurance company is subject to this reporting requirement may be based on the judgment of knowledgeable persons in a company who

can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

- (2) A U.S. insurance company that had transactions with foreign persons that were \$2 million or less in the insurance categories covered by the survey during its calendar year, on an accrual basis, is required to provide the total for each type of transaction in which they engaged.

(i) *Voluntary reporting of insurance transactions.* If, during the calendar year covered by the survey, total transactions were \$2 million or less in the insurance categories covered by the survey, on an accrual basis, the U.S. insurance company may, in addition to providing the required total for each type of transaction, voluntarily report transactions at a country and affiliation level of detail on the applicable mandatory schedule(s).

(ii) [Reserved]

- (3) Any U.S. person that receives the BE-140 survey form from BEA but is not subject to the reporting requirements must file an exemption claim by completing the determination of reporting status section of the BE-140 survey and returning it to BEA by the due date of the survey. This requirement is necessary to ensure compliance with reporting requirements and efficient administration of the Act by eliminating unnecessary follow-up contact.

(d) *Covered types of insurance services.* Insurance services covered by the BE-140 survey consist of transactions between U.S. insurance companies and foreign persons for premiums and losses on primary insurance, premiums on reinsurance assumed and ceded, losses on reinsurance assumed and ceded, as well as receipts and payments for auxiliary insurance services.

(e) *Types of transactions excluded from the scope of this survey.* Premiums paid to, or losses received from, foreign insurance companies on direct insurance.

(f) *Due date.* A fully completed and certified BE-140 report, or qualifying exemption claim with the determination of reporting status section completed, is due to be filed with BEA by July 31 of the year after the year covered by the survey.

6. Revise § 801.13 to read as follows:

§801.13 Rules and regulations for the BE-180 Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons.

The BE-180 Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons will be conducted every five years and covers fiscal years ending in 4 and 9. BEA will describe the proposed information collection in a public notice and will solicit comments according to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501-3520). All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.2 and §§ 801.4 through 801.6 are applicable to this survey. Specific additional rules and regulations for the BE-180 survey are given in this section. More detailed instructions are given on the report form and in instructions accompanying the report form.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE-180 Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons, contained in this section, whether or not they are contacted by BEA. Also, a person, or its agent, that is contacted by BEA about reporting on this survey, either by sending a report form or by written inquiry, must respond in writing pursuant to this section. This may be accomplished by:

- (1) Completing and returning the BE-180 by the due date of the survey; or
- (2) If exempt, completing the determination of reporting status section of the BE-180 survey and returning it to BEA by the due date of the survey.

(b) *Who must report.* A BE-180 report is required of each U.S. person that is a financial services provider or intermediary, or whose consolidated U.S. enterprise includes a separately

organized subsidiary, or part, that is a financial services provider or intermediary, and that had financial services transactions with foreign persons in the categories covered by the survey during the fiscal year covered by the survey.

- (c) *BE-180 definition of financial services provider.* The definition of financial services provider used for this survey is identical to the definition of the term as used in the North American Industry Classification System, United States, Sector 52-Finance and Insurance, and holding companies that own or influence, and are principally engaged in making management decisions for, these firms (part of Sector 55-Management of Companies and Enterprises). For example, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository credit intermediation and related activities (including commercial banking, savings institutions, credit unions, and other depository credit intermediation); non-depository credit intermediation (including credit card issuing, sales financing, and other non-depository credit intermediation); activities related to credit intermediation (including mortgage and nonmortgage loan brokers, financial transactions processing, reserve, and clearinghouse activities, and other activities related to credit intermediation); securities and commodity contracts intermediation and brokerage (including investment banking and securities dealing, securities brokerage, commodity contracts and dealing, and commodity contracts brokerage); securities and commodity exchanges; other financial investment activities (including miscellaneous intermediation, portfolio management, investment advice, and all other financial investment activities); insurance carriers; insurance agencies, brokerages, and other insurance related activities; insurance and employee benefit funds (including pension funds, health and welfare funds, and other insurance funds); other investment pools and funds (including open-end investment funds, trusts, estates, and agency accounts, real estate investment trusts, and other financial vehicles); and holding companies that own, or

influence the management decisions of, firms principally engaged in the aforementioned activities.

(d) *What must be reported.* (1) A U.S. person that had combined sales to, or purchases from foreign persons that exceeded \$3 million in the financial services categories covered by the survey during its fiscal year, on an accrual basis, is required to provide data on total sales and/or purchases of each of the covered types of financial services and must disaggregate the totals by country and by relationship to the foreign transactor (foreign affiliate, foreign parent group, or unaffiliated). The \$3 million threshold for sales and purchases should be applied to financial services transactions with foreign persons by all parts of the consolidated domestic U.S. Reporter. Because the \$3 million threshold applies separately to sales and purchases, the mandatory reporting requirement may apply to sales only, to purchases only, or to both. The determination of whether a U.S. financial services provider is subject to this reporting requirement can be based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(2) A U.S. person that had combined sales to, or purchases from foreign persons that were \$3 million or less in the financial services categories covered by the survey during its fiscal year, on an accrual basis, is required to provide the total sales and/or purchases for each type of transaction in which they engaged. The \$3 million threshold for sales and purchases should be applied to financial services transactions with foreign persons by all parts of the consolidated domestic U.S. Reporter. Because the \$3 million threshold applies separately to sales and purchases, the mandatory reporting requirement may apply to sales only, to purchases only, or to both.

(e) *Voluntary reporting of financial services transactions.* If, during the fiscal year, combined sales and purchases were \$3 million or less, on an accrual basis, the U.S.

person may, in addition to providing the required total for each type of transaction, report sales at a country and affiliation level of detail on the applicable mandatory schedule(s). The estimates can be judgmental, that is, based on recall, without conducting a detailed records search.

(f) *Exemption claims.* Any U.S. person that receives the BE-180 survey form from BEA, but is not subject to the reporting requirements, must file an exemption claim by completing the determination of reporting status section of the BE-180 survey and returning it to BEA by the due date of the survey. This requirement is necessary to ensure compliance with reporting requirements and efficient administration of the Act by eliminating unnecessary follow-up contact.

(g) *Covered types of financial services.* Financial services covered by the BE-180 survey consist of transactions between U.S. financial services companies and foreign persons for brokerage, underwriting, financial management, credit-related, credit-cards, financial advisory, financial custody, securities lending, electronic funds transfers, and other financial services.

(h) *Due date.* A fully completed and certified BE-180 report, or qualifying exemption claim with the determination of reporting status section completed, is due to be filed with BEA by July 31 of the year after the year covered by the survey.

[FR Doc. 2022-12796 Filed: 6/14/2022 8:45 am; Publication Date: 6/15/2022]